

EXPLANATION:

Abuse of any child anywhere, is intolerable. Child abuse is successfully addressed when it encourages a community to work together to protect children and stop child abuse.

The purpose of our proposed amendment is to clarify that a "Christian Science practitioner" is considered within the definition of a "member of the clergy," and that their sacred communications are equally protected.

Christian Science practitioners offer healing prayers and spiritual comfort through sacred communications with those seeking help. *The Church Manual of The First Church of Christ, Scientist* – the constitutional unchanging governing document of the church – states in Article 8, Section 22:

"Practitioners and Patients. SECT. 22. Members of this Church shall hold in sacred confidence all private communications made to them by their patients; also such information as may come to them by reason of their relation of practitioner to patient. A failure to do this shall subject the offender to Church discipline."

Sacred communications between Christian Science practitioners and their patients provide an effective spiritual resource for bringing healing to a variety of issues, including both physical and mental problems. It is only fair that all religious bodies be treated the same way with regard to their sacred communications. To do otherwise would contradict the very heart of the United States Constitution's First Amendment (which ensures against the establishment of religion and also ensures the free exercise of religion) and the Fourteenth Amendment (which provides equal protection under the laws).

Importantly, there is precedent for specifically including a "Christian Science practitioner" in the definition of a "clergyman" or "minister", etc. In the child abuse reporting laws of at least 10 states, the sacred communications of a Christian Science practitioner are expressly protected (see Exhibit A). Furthermore, in the Rules of Evidence or in the Evidence Codes of a least 21 states and the District of Columbia, a Christian Science practitioner is explicitly included within the definition of a "clergyman" or "minister", etc. and is afforded the confidential communication privilege (see Exhibit B).

An example of a similar religious accommodation is illustrated in MCA Section 15-6-201(2)(a)(iv), wherein Montana patterns federal law by expressly defining "clergy" to include a "Christian Science practitioner" for purposes of state property tax laws.

REQUEST FOR AMENDMENT OF HOUSE BILL NO. 91

Relating to sacred communications between Christian Science practitioners and their patients

The Christian Science Committee on Publication for the state of Montana respectfully requests that House Bill No. 91 be amended as follows:

In Sec. 3 of the bill, amend MCA Section 41-3-201(4) to read as follows:

"(4) (a) Except as provided in subsection (4)(b) or (4)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.

"(b) A member of the clergy, Christian Science practitioner, or a priest is not required to make a report under this section if:

"(i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy, Christian Science practitioner, or the priest in that person's capacity as a member of the clergy, Christian Science practitioner, or as a priest;

"(ii) the statement was intended to be a part of a confidential communication between the member of the clergy, Christian Science practitioner, or the priest and a member of the church or congregation; and

"(iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy, Christian Science practitioner, or the priest.

"(c) A member of the clergy, Christian Science practitioner, or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.

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